

# EXHIBIT 5

**In The Matter Of:**

*METRO FUEL, LLC, v.  
CITY OF NEW YORK,*

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*IRIS WEINSHAL*

*June 18, 2008*

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*RAYVID REPORTING SERVICE, INC.*

*25 West 45th Street - Suite 900*

*New York, NY 10036*

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1 sure?

2 Q I can't really testify, but the  
3 question is what you know.

4 A I believe that they put a  
5 scroller up to test whether it would have an  
6 impact, on just what you said, traffic and  
7 traffic safety.

8 Q How was that test done?

9 A They picked a bus stop shelter  
10 and they put up a scroller. I believe that --  
11 again, I'm a little fuzzy about this, but I  
12 believe that our traffic safety people were  
13 called in, and I'm pretty sure Kerry went out  
14 to look at the scroller. I did not go. I  
15 think Phil went out to look at the scroller.

16 So, you may want to check with  
17 both of them.

18 Q I understand there were certain  
19 potential reasons why the City might not want  
20 to allow scrollers, maybe they posed a traffic  
21 safety issue, maybe they had a greater adverse  
22 aesthetic impact.

23 My question is, leaving the  
24 potential downsides aside, what were the  
25 upsides of allowing scroller advertising?

1           A           There was just one upside;  
2           generating more revenue.

3           Q           Let me ask you briefly about pay  
4           telephones, which I understand are under the  
5           auspices of your former agency DCAS and not  
6           DOT.

7           A           No, they are under the auspices  
8           of DOITT. You have to get your things  
9           straight.

10          Q           I was just trying to be  
11          charitable in acknowledging that I know that  
12          DOT did not run the pay phone franchise.

13          A           Right.

14          Q           My understanding from other  
15          people's testimony is that one of the more  
16          significant goals of the street furniture  
17          franchise was not just to make the furniture  
18          look better than it did, but to coordinate all  
19          the different kinds of furniture present in the  
20          City from bus shelters to newsstands to pay  
21          toilets et cetera.

22          A           To news racks, to trash cans, to  
23          anything that was on the street, to coordinate  
24          it.

25          Q           And my question is, why weren't

1 public pay telephones. Did you know,  
2 Ms. Weinshall, that under DOITT's rules, PPTs  
3 are not allowed to bear advertising signs in  
4 residential districts?

5 A No.

6 Q Let me ask you about what we  
7 generally call urban panels. Urban panels is  
8 the name commonly given to the advertising  
9 panels that the MTA has attached to these  
10 railings for subway entrances.

11 Do you know what I'm talking  
12 about?

13 A Yes, it's like live TV.

14 Q Some of them are. I'll  
15 represent to you that there are approximately  
16 900 urban panel faces throughout the City,  
17 approximately eighty of which are high  
18 definition LCD and the great majority are  
19 simple static ads.

20 A Yes.

21 Q You would agree with me,  
22 wouldn't you, that DOT primarily has  
23 enforcement jurisdiction over what goes on on  
24 City sidewalks?

25 A Yes.

1 Q Did DOT, to your knowledge, ever  
2 explore whether these advertising panels that  
3 the MTA had placed, rather ubiquitously  
4 throughout the City were subject to DOT's  
5 jurisdiction?

6 A I remember having conversations  
7 with my staff about this. In particular, I was  
8 concerned about the one that had the TV type of  
9 advertising.

10 Q What concerned you about those?

11 A Again, traffic safety, someone  
12 was traveling and they were distracted by what  
13 was on the screen, would that cause a traffic  
14 accident or cause somebody to lose control of  
15 the car.

16 I was told by the head of the  
17 Deputy Commissioner for traffic that he didn't  
18 see a problem with it, in terms of traffic  
19 safety. He didn't think that would be  
20 distracting enough for people, and at the time  
21 we had other issues with the MTA, having to do  
22 with various construction projects.

23 My Chief of Staff at the time  
24 told me to leave it alone. It was early on in  
25 my tenure with DOT, don't get into it with

1       them. As time goes on, more and more issues  
2       come before you and this seems minor compared  
3       to all the other problems you have to deal  
4       with.

5                        So, I just sort of dropped it.  
6       I never did anything with it.

7               Q       What kind of construction issues  
8       were coming up with the MTA?

9               A       They had a number of  
10       construction projects, which required them to  
11       take portions of our roadway or in the example  
12       of the 1 and 9 train, we had just reconstructed  
13       the Staten Island Ferry Terminal and they were  
14       digging up the entire area around the Ferry  
15       terminal so that we couldn't complete the  
16       project.

17                      On Eastern Parkway and Utica  
18       Avenue, they had to make it ADA accessible.  
19       They had to put elevators in. They were taking  
20       the entire lane on Eastern Parkway.

21                      They were involved in  
22       construction in Brooklyn near BAM, that was  
23       going on and on, beyond the period of time that  
24       we had given them their permit. So, we had a  
25       number of issues with MTA. We weren't getting

1 along on bus rapid transit, we weren't getting  
2 along vis-a-vis creating express bus lanes.

3 So, in the scope of things I had  
4 to deal with them on, I wasn't going to take  
5 them on regarding this.

6 Q Street banners, you're familiar  
7 with the banner --

8 A Program.

9 Q Program.

10 These are the, "advertisements"  
11 may or may not be a fair word for --

12 A Public events. They are  
13 supposed to be for public events. And then the  
14 company sponsoring the banner can then put  
15 their name, their image on the bottom of the  
16 banner.

17 Q Do you know when this program  
18 started?

19 A I don't. I just know when I got  
20 to DOT it was there. And by the way, it's now  
21 moved over, to the market -- the Marketing  
22 Department now runs this program, not DOT.

23 Q Do you know when that happened?

24 A Soon after I left DOT it  
25 happened.